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FEDERAL COMMUNICATIONS COMMISSION
Washington, D. C. 20554
NOV 19 2002

OFFICE OF
MANAGING DIRECTOR

Mr. Daniel D. Smith
KANR
2120 N. Woodlawn, Suite 334
Wichita, Kansas 67208

Re: Request for Reduction of FY 2002
Regulatory Fee
Fee Control No. 00000RROG-02-088

Dear Mr. Smith:

This is in response to your request to reduce the amount of the FY 2002 regulatory fee **for** KANR-FM, Wichita, Kansas. You argue that the regulatory fee will be a financial hardship because KANR showed a net loss on its 2001 tax return. You propose that the Commission charge **KANR** the fee that it charges for stations that serve populations under 20,000 (\$375), rather than the fee that is charged for a station that serves a population of 21,025 (\$725), which is KANR's "population served."

In establishing its regulatory fee program, the Commission recognized that in certain instances payment of a regulatory fee may impose an undue financial hardship on a licensee. **Thus**, the Commission decided to grant waivers or reductions of its regulatory fees in those instances where a "petitioner presents a compelling case of financial hardship." Implementation of Section 9 of the Communications Act, 9 FCC Rcd 5333, 5346 (1994), reconsideration granted, 10 FCC Rcd 12759 (1995). The Commission further held that regulatees can establish financial need by submitting:

[I]nformation such as a balance sheet and profit and loss statement (audited, if available), a cash flow projection . . . (with an explanation of how calculated), a list of their officers and their individual compensation, together with a list of their highest paid employees, other than officers, and the amount of their compensation, or similar information.

10 FCC Rcd at 12761-12762.

In determining whether a licensee has sufficient revenues to pay its regulatory fees, the Commission relies upon a licensee's cash flow, as opposed to the entity's profits. **Thus**, although deductions for amortization and depreciation, and payments to principals reduce gross income for tax purposes, those deductions also represent money which is considered to be available to pay the regulatory fee.

Mr. Daniel D. Smith

2.

In the absence of appropriate documentation, you have failed to establish a compelling case of financial hardship. Therefore, your request for waiver or reduction of KANR's regulatory fees is dismissed. Payment of the FY 2001 regulatory fee in the **amount** of \$725 for Radio Station KANR is now due. The \$725 should be filed together with a **Form FCC 159** (copy enclosed) within 30 days from the date of this letter. In view of your allegations of financial hardship, however, in lieu of payment, you may refile KANR's request together with appropriate supporting documentation and a request to ~~further~~ defer payment of the fee, within 30 days from the date of this letter.

If you have any questions concerning this matter, please contact the Revenue & Receivables Operations Group at (202) **418-1995**.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mark A. Reger', is written over a horizontal line.

Mark A. Reger
Chief Financial Officer

fly

92.7

00000RR06-92-088

RECEIVED
FCC

KANR wichita's party station
2120 n. woodlawn, ste. 334, wichita,

2002 SEP 13 P 2:30

ks 67208 (316) 683-0818 fax
ACCOUNT PROCESSING
GROUP-DPT/RPT/TMT

Office of the Managing Director
FCC
445 12th St., S.W., Room 1-A625
Washington, D.C. 20554
Attn: Regulatory Fee Waiver/Reduction Request

September 5, 2002

To Whom It May Concern:

I am writing to request a reduction in the amount of KANR's regulatory fee. KANR is a sole proprietorship, stand-alone operation struggling to compete against Clear Channel, Entercom and Journal in the Wichita, Kansas market. KANR showed a net loss on the 2001 tax return.

KANR's "population served" is listed at 21,025 for a fee of \$725. The fee would be \$375 if KANR's "population served" was 20,000 or less. That represents more than a 93% increase in the fee for an additional 1,025 persons in the "population served."

I realize no formula for fees is going to make everyone happy. If KANR was more profitable at this time, I would not be making this request.

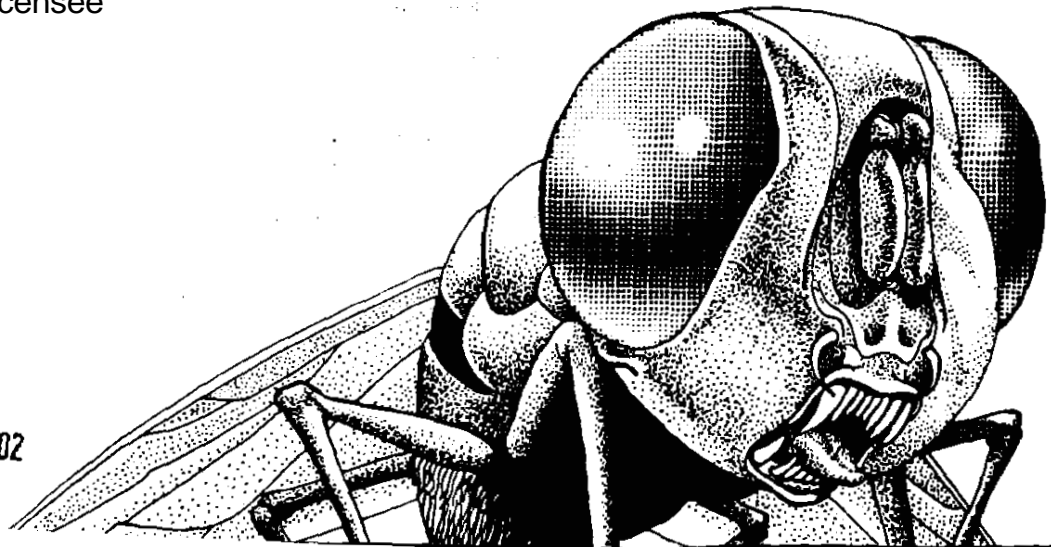
Thank you.

Sincerely,



Daniel D. Smith, licensee

RECEIVED SEP 16 2002



FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

NOV 13 2002

OFFICE OF
MANAGING DIRECTOR

James V. McMahan Jr.
MACKK Broadcasting Co., Inc.
Post Office Box 970
Aberdeen, MD 21001

Re: Radio ~~Station~~ WAMD 97
Fee Control No. 00000RROG-02-089
Bill No. 02-MMB0441

Dear Mr. McMahan:

This is in response to your request dated August 13, 2002 for waiver of late fees or penalties associated with the fiscal year (FY) 2001 regulatory fee for Radio Station WAMD 97. Our records reflect that your \$900.00 regulatory fee was received **on** September 10, 2002, but that we have not received the \$225.00 late payment penalty.

In your request, you state that you never received information from the Commission regarding the date that your 2001 regulatory fees were due and **that** you were **unable** to find a due date in the packet of materials the Commission sent broadcasters in 2000. You **assert** that your "late fee is **unfair** and too **high** in **this** instance," that many stations like WAMD did not receive packets **this** year, and you question why the Commission waited 11 months to send the reminder that the fees due last September had not been received. You assert further that the Commission leaves too much up to the broadcasters to "figure out their fees."

The Commission's rules are clear that licensees such **as** MACKK Broadcasting Co., Inc. (MACKK) **are** required to pay to the Commission an annual regulatory fee in a timely manner. *See* 41 C.F.R. § 1.1157; *see also Assessment and Collection of Regulatory Fees for Fiscal Year 2001*, Report and Order, 16 FCC Rcd 13,525 (2001) (**2001** Report and Order); 47 U.S.C. § 159. It is the obligation of the licensees responsible for regulatory fee payments to ensure the Commission receives the fee payment no later **than** the final date **on** which regulatory fees **are** due for the year. *See* 47 C.F.R. § 1.1157. The Commission issued a public notice announcing the date on which the FY 2001 regulatory fees were due, specifically, September 26, 2001. *See* Public Notice, Extension of Fiscal Year 2001 Regulatory Fee Filing Window, 2001 WL 1078406 (**Sept. 17, 2001**) (**Sept. 17 Public Notice**). As a Commission licensee, MACKK is charged with the responsibility to familiarize itself with the Commission's rules and requirements. Therefore, MACKK's **lack** of familiarity with the Commission's **rules** governing and public notices concerning regulatory fee payments does not mitigate or excuse MACKK's **failure to pay the FY** 2001 regulatory fee in a timely manner. The Commission has repeatedly held that "[l]icensees **are** expected to know and comply with the Commission's rules and regulations and will not be excused for violations thereof, absent clear mitigating circumstances. *Sitka Broadcasting Co., Inc.*, 70 FCC 2d 2375, 2378 (1979), *citing Lowndes County Broadcasting Co.*, 23 FCC 2d 91 (1970) and *Emporium Broadcasting Co.*, 23 FCC 2d 868 (1970). . Furthermore, the Communications Act of 1934, **as amended**, requires the Commission to assess a late charge penalty of 25 percent on any regulatory fee not **paid** in a timely manner. 47 U.S.C. § 159(c).

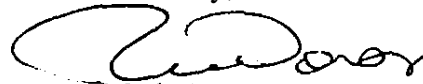
James V. McMahan Jr.

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For the reasons discussed above, we deny **your** request for rescission of the late charge penalty for late payment of the fiscal year 2001 regulatory **fee**.

Payment of **MACCK's \$225.00** late payment penalty for FY **2001** regulatory **fee** is now due. It should be submitted, together with a copy of Bill No. 02-MMB0441, within 30 days of the date of this letter. If you have any questions concerning **this** matter, please contact the Revenue and Receivables Operations Group **at (202) 418-1995**.

Sincerely,


for Mark A. Reger
Chief Financial Officer

Enclosure: Bill No. 02-MMB0441

**Federal Communications Commission
Bill Collection**

FOR INQUIRIES CALL
1-202-418-1995

Bill Number	Bill Date	Please write your bill number on your remittance.
02-MMB0441	8/6/2002	

MACKK BROADCASTING CO, INC
P.O. BOX 970
ABERDEEN, MD 21001

*Federal Communications
Commission
Revenue & Receivables Operations
P.O. BOX 358834*

Total Amount Due		Due Date
\$1,125.00	Total Amount Due Must Be Received By	9/5/2002

Payment Type Code	Quantity	Fee Due	
0125		\$900.00	\$900.00
0199		\$225.00	\$225.00
Total Due			\$1,125.00



Account No.:

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Expiration:

--	--

Month

--	--

Year

I hereby authorize the FCC to charge my MASTERCARD or VISA for the service(s) / authorization(s) herein described.

AUTHORIZED SIGNATURE

DATE

FEDERAL COMMUNICATIONS COMMISSION

Washington, D. C. 20554

NOV 7 2002

OFFICE OF
MANAGING DIRECTOR

J. Geoffrey Bentley
Bentley Law Office
Post Office **Box** 710207
Herndon, Virginia 20171

RE: Request for Waiver of 2002
Regulatory Fees
Fee Control No. 00000RROG-02-092

Dear **Mr.** Bentley:

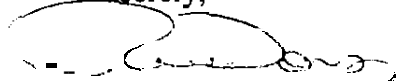
This is in response to the request for waiver of Fiscal Year (**FY**) 2002 regulatory fees, filed on behalf of Ortiz Broadcasting Corp. (Ortiz). In your petition, you state that on June 3, 2002, Ortiz filed a voluntary petition for reorganization pursuant to the provisions of Chapter 11 of the U.S. Bankruptcy Code in the United States Bankruptcy Court for the Southern District of Texas.

The Commission will grant waivers of its regulatory fees on a sufficient showing of financial hardship. Evidence of bankruptcy or receivership **is** sufficient to establish financial hardship. See Implementation of Section 9 of the Communication Act, 10 FCC Rcd 12759, 12761-62 (1995) (waivers granted for licensees whose stations are bankrupt, undergoing Chapter 11 reorganization, or in receivership). You have submitted information showing that Ortiz has been the subject of Chapter 11 bankruptcy proceedings since July 16, 2002. Therefore, your request for waiver of the FY 2002 regulatory fees of \$25,225 for Ortiz is granted, and we do not need to reach the issue of whether Ortiz's station, KTRG, should be assessed a regulatory fee as though it were a VHF television station located outside the 100 largest markets.

You have also requested confidential treatment of the commercial and financial information that you have submitted with your petition. Pursuant to Section 0.459(d)(1) of the Commission's rules, 47 C.F.R. 0.459(d)(1), we do not routinely rule on requests for confidential treatment until we receive a request for access to the records. The records are treated confidentially in the meantime. If a **request** for access to information submitted in conjunction with your petition is received, you will be notified and afforded the opportunity to respond at that time.

If you have any questions concerning this matter, please contact the Revenue & Receivables Operations Group at (202) 418-1995.

Sincerely,



Mark A. Reger
Chief Financial Officer